



NOTICE: THIS AGREEMENT CONTAINS PROVISIONS WAIVING, RELEASING, AND INDEMNIFYING HARRIS COUNTY FLOOD CONTROL DISTRICT FROM LIABILITY IN CERTAIN CIRCUMSTANCES

**TEMPORARY RIGHT OF ENTRY
Background Soil Sampling**

October 31, 2016

Matthew K. Wickham, P.G.
Pastor, Behling & Wheeler, LLC
620 E. Airline
Victoria, TX 77901

RE: Temporary Right of Entry
HCFCF Unit I100-00-00; Key Map 536-G; Precinct 2

Dear Mr. Wickham:

Pastor, Behling & Wheeler, LLC, hereinafter referred to as "Requestor," for and in consideration of the use of certain Harris County Flood Control District, hereinafter referred to as the "District," lands along HCFCF Unit I100-00-00 known as part of the William Vince Survey, Abstract No. 78, in Harris County, Texas, described in deed to Harris County Flood Control District recorded in Harris County Clerk's File No's. C578041, 20100195854, 20100500542, 20100047610 and V707052 Official Public Records of Real Property, Harris County, Texas, and hereinafter referred to as the "Land," for access purposes, and hereby grants to Pastor, Behling & Wheeler, LLC, a non-exclusive, Temporary Right of Entry over, across and upon the Land for the sole purpose of conducting background soil sampling, subject to the following agreements and understandings by and between Requestor and the District:

This Temporary Right of Entry is granted only for the purpose of conducting background soil sampling. Requestor agrees to conduct all background soil sampling work in compliance with appropriate Texas Commission on Environmental Quality (TCEQ) guidelines to ensure accuracy of the test results and protection and conservation of the environment.

Requestor must notify District of site visits with adequate notice and allow District or its consultants to accompany and observe Requestor as Requestor performs background soil sampling on the Land. Requestor must provide copies to District of any and all testing results, data and reports generated or acquired by Requestor as a result of background soil sampling on District Land. After background soil sampling has ended, Requestor must plug sample locations in accordance with appropriate TCEQ procedures.

In consideration of the foregoing right of entry, Requestor agrees to deliver to Harris County Flood Control District the sum of \$50.00 for its right to enter.

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REQUESTOR COVENANTS NOT TO SUE AND AGREES TO RELEASE, DEFEND, PROTECT, INDEMNIFY, AND FOREVER HOLD THE DISTRICT, ITS OFFICIALS, AGENTS, SERVANTS, EMPLOYEES, REPRESENTATIVES, LICENSEES, INVITEES, AND OTHER CONTRACTORS (HEREINAFTER IN THIS ARTICLE REFERRED TO AS THE "DISTRICT") HARMLESS FROM AND AGAINST ANY AND ALL LOSSES, LIABILITY, CLAIMS, DEMANDS, AND CAUSES OF ACTION OF EVERY CHARACTER AND KIND, EXCLUDING PUNITIVE DAMAGES, RESULTING FROM PERSONAL INJURY, ILLNESS, DEATH, OR DAMAGE TO OR LOSS OF PROPERTY OCCURRING, GROWING OUT OF, INCIDENT TO, OR RESULTING DIRECTLY OR INDIRECTLY FROM THE ACTIONS OR OMISSIONS OF REQUESTOR, ITS OFFICERS, EMPLOYEES, AGENTS, SERVANTS, LICENSEES, SUBCONTRACTORS, OR REPRESENTATIVES ("REQUESTOR") IN SECURING, EXERCISING, OR IN ANY MANNER PERFORMING THE TERMS AND CONDITIONS OF THIS AGREEMENT. IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS AGREEMENT THAT THIS INDEMNITY SHALL APPLY EVEN THOUGH ANY DAMAGE, INJURY, SICKNESS, OR DEATH IS CAUSED IN WHOLE OR IN PART BY ANY DEFECT IN OR CONDITION OF THE PROPERTY OR FACILITIES, EQUIPMENT, TOOLS, OR OTHER ITEMS WHICH MAY BE PROVIDED BY DISTRICT, WHETHER OR NOT SUCH DEFECT OR CONDITION WAS KNOWN OR COULD HAVE BEEN KNOWN BY THE DISTRICT.

REQUESTOR FURTHER COVENANTS NOT TO SUE AND AGREES TO RELEASE AND FOREVER HOLD THE DISTRICT HARMLESS FROM ANY AND ALL LOSSES, LIABILITY, CLAIMS, DEMANDS, AND CAUSES OF ACTION OF EVERY CHARACTER AND KIND RESULTING FROM PERSONAL INJURY, ILLNESS, DEATH, OR DAMAGE TO OR LOSS OF PROPERTY OCCURRING, GROWING OUT OF, INCIDENT TO, OR RESULTING DIRECTLY OR INDIRECTLY FROM THE ACTIONS OR OMISSIONS OF THE DISTRICT.

REQUESTOR'S INDEMNIFICATION OBLIGATIONS HEREUNDER COVER ONLY CLAIMS ARISING DURING THE PERIOD THAT REQUESTOR IS ACCESSING AND USING THE LAND, AND SHALL END ONCE THIS RIGHT OF ENTRY TERMINATES AND THE WELLS ARE PLUGGED AND ABANDONED IN ACCORDANCE WITH TCEQ PROCEDURES AND REQUESTOR CEASES ACTIVITIES ON THE LAND, EXCEPT FOR CLAIMS ACCRUING OR ARISING AS A RESULT OF THE ACTIVITIES OR CONDITIONS INDEMNIFIED HEREUNDER DURING SUCH PERIOD.

Requestor, at its sole expense, also agrees to repair, replace and restore the Land, and any improvements thereon belonging to the District, to its original condition prior to the expiration of this agreement, to the extent reasonably practicable.

Requestor agrees to notify District when all equipment is removed and its right of entry is no longer needed so that the District may inspect its premises for damages.

The District may revoke this Temporary Right of Entry if Requestor violates any one or more of these agreements and understandings.

This Temporary Right of Entry does not convey title in or to any part of the land herein described or minerals therein or thereunder, nor does this Temporary Right of Entry relinquish any District rights of ownership, easement rights, or the right to request the immediate removal of Requestor's equipment.

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The District makes no representation or warranty as to its right, title or interest in and to said Land; Requestor accepts the area subject to this Temporary Right of Entry, "AS IS, WHERE IS, AND WITH ALL FAULTS."

This Temporary Right of Entry will terminate six (6) months from the date of execution if not terminated prior to that date as provided herein.

Authority for permanent construction upon the District's Lands other than restorative or for repair purposes is not permitted.

The rights conferred upon Requestor by virtue of this Temporary Right of Entry shall not be assignable or transferable by Requestor.

If you are in agreement with the foregoing conditions, please execute this letter agreement in the space provided and return the original to the Harris County Flood Control District, Attention: Andrew Orlando, Houston, Texas 77092-8619.

If you have any questions, please feel free to call or write.

Sincerely,

A handwritten signature in blue ink, appearing to read "Russell A. Poppe", with a stylized flourish at the end.

Russell A. Poppe, P.E.
Executive Director

RAP:WPS:cr

cc: Dave Walden – Precinct 2
John Randolph – HCFCD
Glenn Laird – HCFCD

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Agreed To and Accepted on 11/14/16

Company Name: Pastor, Behling & Wheeler, LLC

Signature: [Signature]

Name: Matthew K. Wickham

Title: Principal / VP

THE STATE OF TEXAS §

§
COUNTY OF HARRIS §

This Temporary Right of Entry was acknowledged before me on 11/14/2016 by

Matthew K Wickham Principal/VP of, Pastor, Behling & Wheeler, LLC
Name Title Company

on behalf of Pastor, Behling & Wheeler, LLC

Julie Resendez
Notary Public in and for the State of Texas

(Seal)

RAP:WPS:cr

